Minutes of the 85th meeting of the Board of the EHRC

12 September 2019
Fleetbank House, 2-6 Salisbury Square, London, EC4Y 8JX

Attending:

Commissioners
David Isaac, Chair
Suzanne Baxter
Pavita Cooper
Alasdair Henderson
Susan Johnson
Helen Mahy
Mark McLane
Lesley Sawers
Swaran Singh
Caroline Waters
Rebecca Hilsenrath, Chief Executive Officer

Officers
Erica Boardman, Senior Principal - Communications
Dean Button, Principal – Interim Head of Performance and Effectiveness Unit
Martin Deller, Principal - Communications
Tessa Griffiths, Director – Strategy and Governance
Laura Lucking, Director – Compliance (item 12)
Richard Mabbitt, Senior Associate - Governance
Callum MacInnes, Principal –Governance
Alastair Pringle, Executive Director – Scotland and Corporate Delivery
Graham Wheaton, Senior Associate - Governance
Ben Wilson, Executive Director - England and Corporate Improvement and Impact

Guests
Alison Parken, Interim Chair of EHRC Wales Committee
Charles Ramsden, Government Equalities Office

1. Chair's welcome

1.1 David Isaac welcomed attendees. Alison Parken continued to attend as interim chair of the Commission's Wales Committee, pending the appointment of the Wales Commissioner.

2. Apologies for absence

2.1 Apologies had been received from Melanie Field (ED - Wales and Strategy and Policy) and Olufemi Oguntunde (Director of Finance and Procurement).

3. Declarations of interest

3.1 Pavita Cooper declared for registration that a family member sat on the Social Mobility Commission. No other declarations additional to those already registered were made.

4. Minutes of the last meeting

4.1 The minutes of the 84th Board meeting of 3 July 2019 (paper EHRC 85.01) were agreed as a true record.

5. Actions arising

5.1 The Board reviewed the log of actions arising from Board meetings (EHRC 85.02).

a) Action 84/7.9 (Delivery and Financial Management – lessons learned review) would be reported on at item 8.)

b) Action 81/7.2 (Communicating the Commission's Legal activity) would be reported on under the wider Communication and Engagement Strategy discussion at item 9)

c) An update on Action 84/8.5 (schedule for BBC investigation) would be provided at item 7.

5.2 Board members were content with progress against other actions.

6. Away-day readout

6.1 The Board and officers reflected on the discussion at the Strategy and Scenario Planning away day of 11 September 2019 that had preceded the Board meeting

6.2 The discussion had generated the following key themes, and the interlinkages between them.

a) Ongoing support for the Commission's strategic priorities, along with recognition that - now more than ever - the Commission needed to be responsive to external events, and to 'dial-up' or 'dial-down' activities within those aims to deliver maximum impact under rapidly changing circumstances. This might involve

- strategic, but light touch, involvement of Commissioners in considering priorities in each priority aim;
- a leaner and more efficient business planning process;
- robust and persuasive narratives for different scenarios.

b) The need for greater clarity over the irreducible core of what the Commission stood for, and how this was manifested in its activities

c) influencing and stakeholder engagement, which remained critical to the Commission's mission;

d) a distinct and dynamic role. The Commission should feel confident in asserting its position, and being on the front foot on complex or contentious issues.

6.3 Commissioners further noted additional complications and uncertainties of the devolution and decentralisation agendas, and the prospect of a second independence referendum in Scotland.

6.4 The Board and senior officers attending agreed that this had been a productive exercise, and David Isaac asked officers to address the issues raised in the course of business. He asked that a further away day be reconvened at the time of the Board's January 2020 meeting. **Action: Tessa Griffiths/Sarah Maclean** to progress.

7. Commissioner updates

7.1 Lesley Sawers provided a summary of the Scotland Annual Review, which had been circulated as paper EHRC 85.03**.** Board members noted:

a) the volume and scope of the Commission's work in Scotland, and in particular its ongoing work on City Regional Deals to embed equalities in the Inclusive Growth policy in Scotland;

b) the importance of embedding this learning in the Commission's work in respect of English regions and Wales, for example in terms of access to transport;

c) the complexity of devolved and reserved matters in a post-Brexit landscape, or in the event of delayed Brexit or Remain scenarios. Formative engagement with other ALBs, and with the Scottish Human Rights Commission would be important;

e) that future reviews would be presented in a way that made clearer the alignment of the Commissions work in Scotland with its overall Strategic Aims, and supported a format that emphasised and exemplified the ultimate impacts of the Commissions work in Scotland.

The Board felt that the report evidenced the range, impact and influence of the Commission's work in Scotland, and the potential for the Commission to build on these successes. The Board expressed its thanks to the Scotland team for its enterprise and endeavour over the year, and to Lesley Sawers and Scotland Committee for their advice and oversight.

Action: Alastair Pringle to share the Board's feedback with the Scotland team and Scotland Committee

7.2 Alison Parken introduced paper EHRC 85.04 which sought an amendment to the reappointments period set out in Wales Committee Terms of Reference to allow for appointments of up to five years and reappointment of up to five years. It was noted that to ensure continuity, positive churn of membership, and in recognition of Members other commitments, the maximum term would not be the default position. The Board agreed* this more flexible approach, and with Lesley Sawers' endorsement asked that the Scotland Committee Terms of reference be amended in parallel. These changes would take effect immediately, in advance of other updates currently under consideration by the Committees: (**Action: Richard Mabbitt** to amend Scotland and Wales Committee Terms of reference accordingly and incorporate revised versions into the Commission's Governance Manual). In line with these changes, Alison Parken recommended the reappointment of Wales Committee member Faith Walker for three years on her current terms and conditions. The Board was happy to agree this reappointment (**Action: Richard Mabbitt** to progress reappointment).

**With some Commissioners after the meeting having expressed uncertainty about the wording in the paper, the Board subsequently asked Alison Parken and Lesley Sawers for confirmation of their mutual agreement to the arrangements above, which was duly provided.*

7.3 Susan Johnson reported that Audit and Risk Assurance Committee would next be meeting on 18 September.

7.4 Caroline Waters reported that she had asked officers to consider the phasing of Human Resources and Remuneration Committee (HRRC) meetings to align them better with key people milestones and decision points and the cycle of Board meetings. The Board asked that HRRC consider how this might provide a structure for annual reporting on the Commission's People and Change interventions. **Action: Joe Corcos/Caroline Waters**

7.5 Caroline Waters reported that the next Disability Advisory Committee (DAC) meeting would take place on 23 October. She also highlighted the launch of the report of the Dunford Commission on examination malpractice, to which the DAC had made substantive and well received contributions. These had been acknowledged at the launch. The Board noted that this was a good example of effective pre-emptive intervention by the Committee.

7.6 Suzanne Baxter and Alasdair Henderson provided oral updates on the BBC and Labour Party investigations. The Board asked for further reports at its November meeting.

8. CEO's updates.

8.1 The Board reviewed the CEO's report on strategic issues and performance (paper EHRC 85.05) and her finance report (paper EHRC 85.06). Board

members fed back positively on the changes to how finance and performance data was presented. David Isaac thanked officers and Mark McLane who had been working with officers on this.

Strategic issues and performance

8.2 Commissioners discussed the Commission's engagement with key stakeholders, including political parties.

a) It was noted that a series of letters to all main parties were in preparation to clarify and commend the Commission's existing policy positions and would be issued shortly. **Action: Alasdair MacDonald** to share these with Board members on issue, and to circulate summary information on key stakeholders and messages/asks

b) Given the fast-moving political situation, the Board asked for the opportunity to feed into the Commission's preparations for the election and post-election period, and its proactive and reactive work with stakeholders. This could be in the form of a conference call (with individual contacts for those unable to attend) when the election was called. **Action: Sarah Maclean / Tessa Griffiths**.

8.3 The Board discussed the Commission's response to the WEC Inquiry. This was currently being reviewed by the Chair prior to sharing with the Scotland and Wales Committees, with a view to publication in late September. It was agreed that the changing administrative landscape and Commissioners' discussions on this at the away day needed to be reflected in the report, and that – if necessary – the response date be deferred to allow for this.

8.4 The Board noted the appointment of Rt Hon Elizabeth Truss MP as Secretary of State for International Trade and President of the Board of Trade and Minister for Women and Equalities. The Board asked for further briefing on the new Minister's position on human rights and equality issues (**Action Sarah Maclean/Tessa Griffiths**) and emphasised the importance of clarity on what the Commission was doing in the workplace and business spaces.

8.5 The Board asked for further briefing on staff changes at director level. **Action: Ben Wilson.** It was noted that HRRC had identified talent management as an area for further discussion.

Finance Report

8.6 The Board noted the Forecast outturn at Period 4. Pressures on the Legal budget including increased costs on investigations had been substantially offset by the 'dialling down' of Compliance and Research teams' spending (including delaying the initiation of an Inquiry, and taking on some research activity in-house), and by some changes to Legal team's delivery approach.

8.7 The Board noted the year-to-date resource expenditure underspend which reflected timing differences across a range of Priority Aims activities. It was

anticipated that these would be on track before the end of the financial year, with no impact on overall delivery.

8.8 The Board noted the financial risks in relation to the forecast outturn particularly those reating to the outcomes of legal cases to which the Commission was a party. It was noted that the outcomes of these cases could not be predicted with certainty, and might fall late in the financial year. The Board:

a) welcomed the improved capacity in the PEU and Finance teams and the more thoroughgoing approach to assessing the potential upside and downside risks that these presented;

b) noted that managing stakeholder relations was factored into executive decision making on which activities to dial up or down. The Commission was unlikely to scale back work where public commitments had been made, and likely increased or decreased impacts were discussed with key stakeholders at the earliest stage;

c) noted that the Commission was in liaison with the Government Legal Department with a view to sharing and learning lessons from managing legal casework throughput.

d) was advised that with both investigations well-advanced, the current predictions on spend were able to be considerably more accurate that the forecast at initiation. It was noted that these were only the second and third investigations to be carried out by the Commission and although substantial lessons had been gained from the Commission's earlier investigation into the Metropolitan Police Service, the evidence base for spending assumptions remained limited, and initiation of investigations inevitably factored in a number of unknowns;

e) noted that the Commission was monitoring how Counsel was being sought with a view to ensuring it was being used appropriately and delivering value for money, and was considering options for improving in-house expertise.

8.9 The Board was pleased that that the financial improvement plan was well under way, with 12 of 18 actions having been initiated or completed. ARAC would be discussing this further at its meeting of 18 September.

8.10 In advance of the discussion at item 9, the Board discussed planned expenditure on Communications. They queried whether the budget was sufficient to support the Commission's planned activities across the piece, and particular in those areas identified at the away day. The Board:

a) acknowledged the quality of the existing work being carried out in-house by the Communications team;

b) noted that communications activity, particularly content and digital production, was relatively straightforward to dial up in comparison to other areas of the Commission's work.

c) Felt that further data on the split between spend on communications infrastructure and communication product would be helpful management information;

d) Asked to revisit Communications spend at the Board's next meeting in the light of the away day discussion. **Action: Ben Wilson**

9. Communications and Engagement Strategy

9.1 Erica Boardman and Martin Deller joined the meeting to present paper EHRC 85.07. This set out the Commission's overarching communications and engagement strategy, to support the delivery of its Strategic Plan over the next three years. Supporting communications strategies and stakeholder maps were being finalised for each of the Strategic Aims

9.2 The Board was content with the overall strategic approach to communications and engagement set out in the paper set out in the paper. It supported the three roles for the Commission of enforcer, influencer and thought leader.

9.3 The Board felt that progress on communications and engagement had been good. It felt that further exposition of the qualitative impact of communications successes, and their relative importance would be helpful for future discussions.

9.4 The Board noted that the Commission monitored the social media and communications environment in which it operated. This supported its aim of establishing a unique, calm and authoritative voice in often heated and polarised arenas based on the Commission's legal function, statutory mandate, NHRI status and independence.

9.5 Board members reflected on the potential for:

a) greater engagement with children and young people, and the longer term human rights impacts that this might deliver;

b) further behaviour change work around attitudes to human rights;

c) more communications and engagement activity with private sector (for example the anniversary of the Equal Pay Act) building on Working Forward;

d) a more diverse social media presence. Here, the Board noted that the nature of new media consumption could mitigate against its successful deployment by corporate bodies, even those better resourced and with more commercial remits. The continuing importance of traditional media was also stressed. The Board asked for sight of the

benchmarking research that the Commission had undertaken on its use of social media. **Action: Erica Boardman**

e) the need to deliver engaging and thought-provoking communications based on the Commission's aims and activities in a way that broadened the Commissions reach across the nations and across a diverse range of stakeholder groups without compromising the Commission's unique voice as a steady, impartial, careful, dispassionate expert body at a time of polarised and destructive debate.

The Board asked for further information about the Commission's stakeholder segmentation and thinking in these areas (**Action: Sarah Maclean/Tessa Griffiths)** and felt that it would be timely to revisit the Commission's theory of change models in respect of Communications in the light of issues raised at the away day.

9.6 The Board thanked officers for their work on the strategy and asked that communications and engagement be discussed further at its November meeting, including:

a) the agility of the Commission's communications and engagement function;
b) the role of Commissioners in terms of communications and stakeholder engagement;
c) further analysis of budget and costs, including breakdown into infrastructure and product;
d) The Commission's role as a go-to commentator and thought leader and the importance of engaging with emerging debates beyond the strategic plan, utilising the Commission's intellectual capital
e) The Commission's independence narrative, in the context of upcoming NHRI accreditation.

Subject to these queries, the Board approved the strategy.

Action: Ben Wilson and Erica Boardman to progress

14. Any Other Business

14.1 David Isaac thanked Board members and staff for their contributions over the two days. The Board would next meet formally on 14 November.

Agreed by the EHRC Board at its meeting of 14 November
(see also note at item 7.2)